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8 **STATE OF WASHINGTON**
 KING COUNTY SUPERIOR COURT

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 SAMUEL MELTZER, individually and
13 on behalf of his marital community, and
14 ADAM MELTZER, individually and
on behalf of his marital community,

15 Defendants.

NO.

COMPLAINT FOR INJUNCTIVE
AND ADDITIONAL RELIEF UNDER
THE UNFAIR BUSINESS
PRACTICES--CONSUMER
PROTECTION ACT AND THE
UNSOLICITED ELECTRONIC MAIL
ACT

16 **COMES NOW**, plaintiff, State of Washington, by and through its attorneys Christine
17 O. Gregoire, Attorney General; and Paula Selis, Senior Counsel, and brings this action against
18 defendants named herein. The state alleges the following on information and belief:

19 **I. JURISDICTION AND VENUE**

20 **1.1.** This Complaint is filed and these proceedings are instituted under the provisions
21 of RCW 19.86, the Unfair Business Practices--Consumer Protection Act, and RCW 19.190, the
22 Unsolicited Electronic Mail Act.

23 **1.2.** Jurisdiction of the Attorney General to commence this action is conferred by
24 RCW 19.86.080 and RCW 19.190.030(2).
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1.3. The violations alleged herein have been and are being committed in whole or in part in King County, in the State of Washington by defendants named herein.

II. DEFENDANTS

2.1. Defendant Samuel Meltzer sends unsolicited commercial electronic mail to Washington residents. Defendant Meltzer also does business in Washington through the Internet web sites Chippynet.com and Mobydns.com, and has control over the content, transmission, activities and practices related to those web sites. Defendant Meltzer is married to Jane Doe Meltzer, and together they constitute a marital community. Defendant Samuel Meltzer resides at 1370 Carling Drive #302, Saint Paul, Minnesota.

2.2. Defendant Adam Meltzer sends unsolicited commercial electronic mail to Washington residents. Defendant Meltzer also does business in Washington through the Internet web sites Chippynet.com and Mobydns.com, and has control over the content, transmission, activities and practices related to those web sites. Defendant Meltzer is married to Jane Doe Meltzer, and together they constitute a marital community. Defendant Adam Meltzer resides at 742 Watson Avenue, Saint Paul, Minnesota.

III. NATURE OF TRADE OR COMMERCE

3.1. Defendants send electronic mail messages to individuals located in Washington. In order to assure the intended recipients open the messages, defendants’ electronic mail contains a variety of attention-getting subject lines and sender names in the “from” field of messages. Examples of typical subject lines sent by defendants include “Payment Past Due,” “Check Unclaimed,” and “URGENT- Account Update.” In the “from” field of the messages, defendants have included the sender names “Collection Department” and “Payment Department.”

3.2. The text of the downloaded messages contains an advertisement for debt consolidation services, and encourages consumers to click on a hypertext link within the text of

1 the message to obtain a “free no obligation consultation.” When the email recipient clicks on
2 the hypertext link, one of two web sites, chippynet.com or mobydns.com, is displayed. Both
3 the chippynet.com and mobydns.com web sites contain substantially the same text which
4 includes a reference to the services provided by a debt management company, and an
5 application form to be filled out and submitted for a “free debt analysis.” The application form
6 asks for information about the consumer, including but not limited to his or her name, address,
7 electronic mail address and the amount of unsecured debt owing.

8 **3.3.** Consumers who fill out and send in the web site application form receive a
9 telephone call from a business which attempts to sell them debt consolidation services.

10 **3.4.** Defendants know or have reason to know that they send unsolicited commercial
11 electronic mail to Washington residents.

12 **3.5.** Defendants are in competition with others in the State of Washington engaged
13 in similar business.

14 **IV. FIRST CAUSE OF ACTION**

15 **4.1.** Plaintiff realleges Paragraphs 3.1 through 3.5 and incorporates them herein as if
16 set forth in full.

17 **4.2.** Computer users are alerted to the existence of electronic mail messages
18 intended for their receipt by a display on their computer monitors. The display lists the
19 message by its purported sender and a brief subject line which generally describes the body of
20 the message. In order to read or “download” the entire message, the user usually must click a
21 cursor on the text of the subject line, at which point the text of the message is displayed.

22 **4.3.** The purpose of the subject line in an electronic mail message is to describe the
23 message’s text. This enables a computer user to have discretion over whether and when to
24 read the entire text of the message. Emergency or personal messages may take precedence
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1 over commercial messages. Similarly, work-related messages may take precedence over
2 commercial messages.

3 **4.4.** Defendants' unsolicited electronic mail messages display various subject lines.
4 Rather than accurately describing the content of the text, these subject lines mislead recipients
5 as to the true nature of the message itself. For example, defendants display "Payment Past
6 Due," "URGENT-Account Update" and "Check Unclaimed" as subject lines in their
7 unsolicited electronic mail messages. None of these subject lines accurately describes the
8 content of the messages. Rather, they constitute attempts to deceptively entice the recipient
9 into downloading and reading the entire text of the message. "Payment Past Due" misleads the
10 recipient into thinking that he or she is late in paying a bill. "URGENT- Account Update"
11 creates the misimpression that an existing account held by the recipient has been changed and
12 requires immediate review. "Check Unclaimed" misleads the recipient into thinking that he or
13 she is entitled to unclaimed funds.

14 **4.5.** The use of false or misleading information in the subject line of a commercial
15 electronic mail message violates RCW 19.190.030(1)(b). Pursuant to RCW 19.190.030(2),
16 defendant's violation of RCW 19.190.030(1)(b) constitutes a *per se* violation of the Consumer
17 Protection Act, RCW 19.86.

18 **4.6.** The conduct described above constitutes unfair or deceptive acts or practices in
19 trade or commerce and unfair methods of competition in violation of RCW 19.86.020.

20 **V. SECOND CAUSE OF ACTION**

21 **5.1.** Plaintiff realleges Paragraphs 3.1 through 4.6 and incorporates them herein as if
22 set forth in full.

23 **5.2.** When an electronic mail message appears in a recipient's mailbox, the sender's
24 identity is posted along with the subject line of the message. This information is posted not
25 only in the user's mailbox upon notification of the existence of the message, but as part of the
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1 downloaded message itself in the “from” field. The purpose of the information is to identify
2 the originator of the message. This information, along with the subject line, provides direction
3 to the user about the source of the information in the message, its urgency, and whether it is
4 personal, commercial, or work related.

5 **5.3.** Defendants misrepresent the identity of the sender of their electronic mail.
6 Instead of identifying the true originator, defendants identify the sender deceptively as
7 “Collection Department” or “Payment Department.” Using false originating names such as
8 these, defendants attempt to create a sense of importance and urgency about the message. The
9 messages appear to originate from an official division of a business, and engender the
10 misimpression that the recipient is being contacted about a matter involving the collection or
11 payment of an existing financial obligation. In fact, the false identities are used to deceive the
12 recipient into opening and reading the text of a commercial message.

13 **5.4.** The above-described conduct constitutes unfair and deceptive acts or practices
14 in trade or commerce, and unfair methods of competition in violation of RCW 19.86.020.

15 **VI. PRAYER FOR RELIEF**

16 **WHEREFORE, PLAINTIFF, STATE OF WASHINGTON,** prays for relief as
17 follows:

18 **6.1.** That the Court adjudge and decree that defendants have engaged in the conduct
19 complained of herein.

20 **6.2.** That the Court adjudge and decree that the conduct complained of in Paragraph
21 4.4 constitutes violations of the Unsolicited Electronic Mail Act, Chapter 19.190 RCW, and
22 pursuant to RCW 19.190.030(2) constitutes *per se* violations of the Consumer Protection Act,
23 Chapter 19.86 RCW.

